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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,003	01/21/2004	Mark Neuhalfen	2004-0017	4517

7590 03/25/2010  
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EXAMINER
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NGO, LIEN M

ART UNIT	PAPER NUMBER
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3754

MAIL DATE	DELIVERY MODE
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03/25/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,003	<b>Applicant(s)</b> NEUHALFEN, MARK	
	<b>Examiner</b> LIEN TM NGO	<b>Art Unit</b> 3754	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 49-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/2/10 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 49-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 49, it is confusing whether "a peripheral rim" in line 16 is the same with "a peripheral rim" in line 5.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 49-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Yazawa et al. (6,196,275).

Yazawa et al. disclose, in figs. 1 and 5-7, a dispenser comprising a mounting cup 4 having a turret defined in a central region of said mounting cup about an axis of symmetry of said mounting cup; an aerosol valve 7 secured in said turret of said mounting cup; a mounting surface integrally formed with said mounting cup and located intermediate a peripheral rim 18 and said turret and extending generally parallel to an axis of symmetry of said mounting cup; a collapsible container 1 for containing the aerosol product; a bond (adhesive or wedding, col. 5, lines 39-42) for sealing the collapsible container to said mounting surface of said mounting cup; said bond sealing the collapsible container to mounting cup being located only on said mounting surface ; and the peripheral rim integrally formed with said mounting cup in proximity to an outer periphery of said mounting cup for sealing said mounting cup to the aerosol container 13 for enabling the aerosol propellant located within the aerosol container to apply pressure to said collapsible container to collapse said collapsible container upon an open of said aerosol valve to dispense the aerosol propellant from said collapsible container through said aerosol valve.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yazawa et al. in view of Giggard (4,185,758).

Giggard teaches a mounting cup includes a first polymeric bond material 18 laminated on the mounting surface of mounting cup; a second polymeric bond material located on a collapsible container (laminated polyester, .col. 2, lines 12-15); and said first polymeric bond material bonding to said second polymeric bond material by heating for securing the collapsible container to said mounting cup.

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a polymeric bond material laminated on the mounting surface of mounting cup and the collapsible bag of Yazawa et al., as taught by Giggard, in order to enhance the bonding between the mounting cup and the collapsible bag under heating.

8. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yazawa et al.

Yazawa further discloses, in figs. 11 and 12, the sidewall of the mounting cup comprising a second region adjacent to the bottom of the mounting cup, the second region being located radially inwardly relative to a first region of the side wall.

Yazawa does not disclose the second region providing a mounting surface, and the bond sealing being located only on said mounting surface.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the invention of Yazawa with a bond sealing located only on the second region, since it has been held that omission of an element (no or less bond sealing of the collapsible container and the mounting cup, except only on the second region) and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. In re Karison, 136 USPQ 184.

### ***Response to Arguments***

9. Applicant's arguments filed 3/2/10 have been fully considered but they are not persuasive as pointed out in the rejections above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LIEN TM NGO/  
Primary Examiner, Art Unit 3754

March 23, 2010